

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LOYDALE KIRVEN,

Plaintiff,

vs.

No. CIV 06-1212 JB\WDS

CURRY COUNTY DETENTION CENTER,
WARDEN JOHNSON,
CRIS SENA, et al., in their individual
and official capacities,

Defendants.

**MEMORANDUM OPINION AND ORDER STRIKING MOTION FOR SETTLEMENT
CONFERENCE**

THIS MATTER comes before the Court sua sponte on the Plaintiff's Motion for Settlement Conference, filed January 25, 2019 (Doc. 102)("Motion"). The Court will strike the Motion. The Court will also prohibit Plaintiff Loydale Kirven from submitting any further filings in this closed case.


Kirven instituted this proceeding by filing a hand-written Complaint on December 11, 2006 (Doc. 1). The Court adopted the United States Magistrate Judge's Proposed Findings and Recommended Disposition, filed October 23, 2008 (Doc. 50), and dismissed the case, see Order, filed December 31, 2008 (Doc. 55). The Court entered Final Judgment on December 31, 2008. See Judgment, filed December 31, 2008 (Doc. 56). The United States Court of Appeals for the Tenth Circuit affirmed the Court's dismissal of this case by Mandate entered on August 28, 2009 (Doc. 66). Kirven filed a Motion to Reopen Case under rule 60(b) of the Federal Rules of Civil Procedure on November 23, 2011 (Doc. 68)("Motion to Reopen"). The Court denied the Motion

to Reopen in its Memorandum Opinion and Order, filed September 26, 2011 (Doc. 94). Kirven did not appeal the Court's September 26, 2011, decision. Kirven filed his Motion for Settlement Conference on January 25, 2019 (Doc. 102). Kirven's Motion, in its entirety, states: "Now come Plaintiff praying this Court grant this Settlement Conference at whatever is just deem or proper." Motion for Settlement Conference at 1. This case has been closed since December 31, 2008. See Judgment, filed December 31, 2008 (Doc. 56). The Court denied Kirven's 2011 request to reopen the case, and Kirven did not challenge that determination. There is no pending proceeding in which the Court could conduct a settlement conference.

The Court has inherent authority to manage its docket, including the authority to strike filings. See Link v. Wabash R.R. Co., 370 U.S. 626, 630-31 (1962); United States v. Schneider, 594 F.3d 1219, 1226 (10th Cir. 2010)("The power of district courts to manage their dockets is deeply ingrained in our jurisprudence."); Kitson v. Bank of Edwardsville, 240 F.R.D. 610, 611 (S.D. Ill. 2006)(Murphy, C.J.)(holding that court has inherent power to strike party's submissions other than pleadings). Exercising its inherent authority, the Court will strike Kirven's Motion for Settlement Conference.

The Court will also prohibit Kirven from submitting any further filings in this case. The Court will not permit Kirven to file anything in this proceeding until further Court order. The Court has given Kirven a full and fair opportunity to litigate his claims, and the time has long since run to appeal the Court's determinations. See Fuentes v. Chavez, 314 F. App'x 143, 145 (10th Cir. 2009)("There is a limit to how many bites even a pro se plaintiff can have at the apple."). See also Steiner v. Concentra, Inc., 195 F. App'x 723, 727-28 (10th Cir. 2006). The Court will direct the Clerk to return, unfiled, any further submissions by Kirven in this case.

IT IS ORDERED that: (i) Plaintiff's Motion for Settlement Conference, filed January 25, 2019 (Doc. 102), is stricken; (ii) Plaintiff Loydale Kirven is prohibited from submitting any further filings in this case; and (iii) the Clerk is directed to return, unfiled, any further submissions received from Plaintiff Loydale Kirven in this case.


UNITED STATES DISTRICT JUDGE

Parties and counsel:

Loydale Kirven
Clovis, New Mexico

Plaintiff pro se

Jonlyn M. Martinez
Law Firm of Jonlyn M. Martinez
Albuquerque, New Mexico

Attorney for Defendants